

# Office of Attorney General Terry Goddard



STATE OF ARIZONA  
DEPARTMENT OF LAW  
1275 W. WASHINGTON STREET  
PHOENIX, ARIZONA 85007-2926  
[WWW.AZAG.GOV](http://WWW.AZAG.GOV)

ANNE TITUS HILBY  
PRESS SECRETARY  
PHONE: (602) 542-8019  
CELL PHONE: (602) 725-2200  
[ANNE.HILBY@AZAG.GOV](mailto:ANNE.HILBY@AZAG.GOV)

**FOR IMMEDIATE RELEASE**

---

## **Terry Goddard Files Lawsuit to Stop Foreclosure Rescue Operation**

(Phoenix, Ariz. – March 5, 2009) Attorney General Terry Goddard today announced that he has filed a lawsuit against an alleged foreclosure rescue operation believed to have defrauded approximately 400 Arizonans of their homes. This action comes as part of Goddard's crackdown on con artists who prey upon vulnerable homeowners struggling to avoid foreclosure.

"Instead of offering legitimate help to homeowners, this operation misled and exploited them to turn a handsome profit," Goddard said. "The housing crisis has given rise to a number of rescue scams, and we are going after them aggressively."

Goddard alleges that between 2003 and 2007, Richard Winer, 33, of Tempe, through his limited liability companies – Taken Care of Investments, LLC, Homeowner Solutions, LLC, Bourbon Street Property Management, LLC and Filibuster, LLC – victimized homeowners facing imminent foreclosure with fraudulent offers to assist them in staying in their homes.

Winer is believed to have identified potential targets through public records of delinquent borrowers whose properties were facing trustee sales. Winer's salespeople approached those homeowners claiming to be experienced "distressed property consultants" who could, in many cases, "stop foreclosure within 24 hours."

According to court documents, Winer and his salespeople persuaded struggling homeowners to deed him their homes in return for assuming their monthly mortgage payments and paying off the full value of their delinquent payments. Winer allegedly charged homeowners a monthly fee equivalent to the mortgage payment to remain in the home as a renter. Neither the owner's mortgage lender nor servicer was notified of the transfer of title.

These owners-turned-renters had the option to repurchase the house from Winer within one year for a fee of \$15,000, if they met all of the conditions of the sale-leaseback agreement. If the owner-turned-renter violated any of the conditions, such as by making even one late rental payment, the option to repurchase the home became void and the individual was subject to immediate eviction.

The State's lawsuit claims that homes obtained under this scheme were resold within two weeks to investors who paid a commission to Winer. Almost all of the owners-turned-renters proved unable to repurchase their properties, at which time the investor sold the home at full market value, typically tens of thousands of dollars more than the amount paid to Winer.

The lawsuit alleges that this behavior violated numerous state laws, including the Arizona Consumer Fraud Act and the Arizona Debt Management Companies Act, by:

- Falsely and deceptively representing to homeowners that they would save their homes when, in fact, the defendants structured the transactions to take ownership and equity away from homeowners for the benefit and profit of defendants.
- Misleading homeowners and circumventing and concealing from them the defendants' obligations and homeowners' rights and remedies under a mortgage loan agreement.
- Evading the protections of the Federal Truth in Lending Act (TILA) which required defendants to disclose the annual percentage rate of the mortgage and the homeowner's right to rescind the transaction within three days of receiving notification of the right.
- Evading of the protections provided by Arizona's licensing requirements for mortgage bankers and mortgage brokers.
- Acting as a debt management company but failing to obtain a license, post the bond required, pay the required fees or maintain the required liquid assets.
- Making or negotiating mortgage loans, acting as a mortgage broker and receiving compensation in connection with arranging or negotiating mortgage loans without posting the required bond, passing the mortgage broker's test, conducting the required investigations into employees or making the disclosures to consumers required of mortgage brokers by Arizona law.

In the lawsuit, Goddard requests that the court order Winer to:

- Refrain from violating the Arizona Consumer Fraud Act, the Arizona Debt Management Companies Act, the Arizona Mortgage Brokers Act and the Arizona Mortgage Bankers Act.
- Pay full restitution to all homeowners victimized by the abovementioned behavior.
- Pay the State of Arizona a civil penalty of \$10,000 for each violation of the Consumer Fraud Act.
- Pay the Department of Financial Institutions a civil penalty of \$5,000.00 for each violation of the Arizona Debt Management Companies Act, the Arizona Mortgage Brokers Act and the Arizona Mortgage Bankers Act.
- Reimburse the Attorney General and the Department of Financial Institutions for costs of investigation and attorneys' fees.

Today, Goddard announced the launch of a Web page dedicated to helping homeowners avoid foreclosure rescue scams and loan modification scams, as well as locate legitimate services and programs available to them. The page, found at [www.azag.gov](http://www.azag.gov), includes current information on resources available through President Obama's Homeowner Affordability and Stability Plan.

This case is being handled by Assistant Attorney General Rebecca Salisbury. A copy of the complaint is attached.

###